

The below described is **SIGNED**.

Dated: April 15, 2009



JUDITH A. BOULDEN  
U.S. Bankruptcy Judge



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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

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In re:

**Susan L. Ostler**

Debtor.

Bankruptcy Number: **08-20489**

Chapter 7

**Susan L. Ostler**

Plaintiff,

Adversary Proceeding No. **09-2057**

vs.

Judge Judith A. Boulden

**Nelnet, Inc., Nelnet/Unipac, Nelnet Loan  
Services, Utah Higher Education  
Authority, and John Does 1-10**

Defendants.

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW GRANTING THE DEBTOR'S  
MOTION FOR SUMMARY JUDGMENT**

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Before the Court is Susan L. Ostler's (the Debtor) oral motion for summary judgment based on the Stipulated Statement of Facts submitted by the Debtor and the Defendants. The

Debtor has asked the Court to determine whether requiring her to repay her student loan obligations to the Defendants imposes an undue hardship on her and her dependant as set forth in 11 U.S.C. § 523(a)(8).<sup>1</sup>

The Court has reviewed the Stipulated Statement of Facts, the pleadings, and has conducted an independent review of applicable case law. Based thereon, the Court hereby makes the following findings of fact and conclusions of law.

### **FINDINGS OF FACT**

The Court adopts and incorporates by reference the Stipulated Statement of Facts filed by the parties and makes the following additional finding:

1. As of the petition date, the Debtor was self employed as a paralegal with net income of \$3,442 and expenses of \$4,098.

### **CONCLUSIONS OF LAW**

1. The Debtor is unable to maintain a minimal standard of living for herself and her adult daughter based on her current income and expenses.

2. The Debtor's continuing responsibility to care for and to financially support her adult daughter who has been diagnosed with microcephalycerebral palsy and mental retardation makes it difficult for the Debtor to maintain employment and to meet her monthly expenses.

3. The Debtor's sole care of and financial responsibility for her adult daughter is likely to persist for a significant portion, if not for the entire portion, of the student loan repayment period.

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<sup>1</sup> Any future statutory references are to title 11 of the United States Code unless otherwise indicated.

4. These circumstances were not contemplated by the Debtor when she incurred her student loan obligations and are beyond her reasonable control.

5. Since incurring her student loan obligations, the Debtor has made a good faith effort to repay those obligations.

6. Requiring the Debtor to repay her student loan obligations to the Defendants would impose an undue hardship on the Debtor and her adult daughter.

Based on the findings of fact and conclusions of law, the Court grants the Debtor's oral motion for summary judgment. A separate order and judgment will be issued.

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ORDER SIGNED

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**SERVICE LIST**

Service of the foregoing **FINDINGS OF FACT AND CONCLUSIONS OF LAW GRANTING THE DEBTOR'S MOTION FOR SUMMARY JUDGMENT** will be effected through the Bankruptcy Noticing Center to each party listed below.

**Susan L. Ostler**

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Salt Lake City, UT 84102  
*Pro se Plaintiff*

**Thomas C. Anderson**

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ORDER SIGNED